IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

Bail Appl..No. 5265 of 2007()

CRIME NO. 258/07 OF KASABA POLICE STATION

PETITIONERS : ACCUSED:

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1. MOIDEEN KUTTY.A., S/O.KUNHAMMAD,
PARAYIL HOUSE, PARAMBIL PEEDIKA, VELIMUKK
MALAPPURAM DISTRICT.

2. B.NAINAN MUHAMMED,
S/O.PONNIYAR RAVUTHR, NAINAPPAM ILLAM,
NATHOM, DINDIKKAL DISTRICT, TAMILNADU.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON
SRI.M.MUHAMMED SHAFI

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, KASABA POLICE STATION,
KOZHIKODE THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5265 of 2007

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Dated this the 4th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are the licensee and an employee of a fruit shop. An important functionary, a Member of the Human Rights Commission, allegedly went to the shop of the petitioners to purchase fruits. He allegedly had an unsatisfactory experience there. Rotten mangoes were sought to be delivered to him ignoring his objections. The Private Secretary to the said functionary made a complaint to the District Collector. On the direction of the District Collector, the City Rationing Officer, along with a team, allegedly visited the said shop. While they were taking statements of the persons concerned, it is alleged that a group of persons came to the shop and interfered with the discharge of official duties of the City Rationing Officer, who was engaged in the activity of recording the statements. The persons who came to the place allegedly interfered with the work of the City Rationing Officer and tore away the statements which were being recorded. On the complaint of the said City Rationing Officer the present crime, inter

alia, under Section 353 r/w. 149 I.P.C. has been registered against the two named accused persons, the petitioners herein, and a crowd of others. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that even if the entire allegations were accepted, the petitioners do not deserve to suffer the trauma of arrest and incarceration. Even going by the specific allegations in the complaint the role assigned to the petitioners is that they kept quiet and did not take any action against the miscreants who interfered with the official duties of the complainant. The F.I. statement very clearly shows that this is the only allegation against the petitioners herein.

3. The learned counsel for the petitioners prays, the learned Prosecutor does not oppose the said prayer and I am satisfied that the petitioners can be granted anticipatory bail, subject to appropriate terms and conditions.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 10.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on

regular bail on condition that the petitioners execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 11.9.2007 and 12.9.07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 10.9.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 10.9.2007 as directed in clause (1) above, they shall be released from custody on their executing bonds for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 10.9.2007.

(R. BASANT)
Judge

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